

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY

United Transportation Union and  
Rick L. Chapman

Plaintiffs,

v.

Civil Action No. 5:07-CV-0682

Gary L. Perdue, B.R. Martin,  
Lawrence Washington, City of Montgomery,  
Kanawha County Sheriff's Department and  
County Commission of Kanawha County

Defendants.

**DEFENDANT, GARY L. PERDUE'S, MOTION TO DISMISS**

NOW COMES the Defendant, Gary L. Perdue, by counsel John R. Fowler and Anna B. Williams, John R. Fowler, PLLC, appearing specially, and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure moves this Honorable Court for an Order dismissing the Plaintiffs' claims as to Officer Gary L. Perdue as Plaintiffs' claims fail to state a claim upon which relief can be granted. The Defendant respectfully directs this Court's attention to the Memorandum of Law filed herewith.

/s/ Anna B. Williams

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**CERTIFICATE OF SERVICE**

The undersigned counsel for the defendant hereby certifies that on this 20th day of December, 2007, I electronically filed the foregoing **Defendant, Gary L. Perdue's Motion to Dismiss and Memorandum of Law in Support of Defendant, Gary L. Perdue's Motion to Dismiss** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the below listed CM/ECF participants.

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